1	RALPH P. GUENTHER, Esq. 124245		
2	rguenther@guentherlawgroup.com GUENTHER MILLER LAW GROUP 601 S Main Street		
3	Salinas, CA 93901		
4	(831) 783-3440		
5	Attorney for Debtor and Plaintiff		
6			
7			
8			
9			
10	UNITED STATES BANKRUPTCY COURT		
11	NORTHERN DISTRICT OF CALIFORNIA		
12	SAN JOSE DIVISION		
13			
14	In re:	Case No. 21-51125HLB	
15	CASSANDRA L. HIGLESIAS,	Chapter 13	
16	Debtor.	Adversary Proceeding No. 21-	
17			
18	CASSANDRA L. HIGLESIAS,		
19	Plaintiff,	COMPLAINT TO TURNOVER OF PROPERTY OF THE ESTATE	
20	vs.	UNDER 11 U.S.C. § 542(A)	
21	Domain Motors, LLC,		
22	Defendant.		
23			
24	Plaintiff, Cassandra L. Higlesias, files this complaint seeking a judgment against Defendant,		
25	Domain Motors, LLC, for turnover of Plaintiff's 2009 BMW 535i (the "Vehicle") pursuant to 11		
26	U.S.C. § 542(a). Defendant repossessed the Vehicle prior to the filing of Plaintiff's chapter 13		
27	bankruptcy petition on August 25, 2021.		
28	///		

1

2 3

4

5

6 7

8 9

10

11

12 13

14

15

16 17

18 19

20 21

22

23

25

26 27

28

JURISDICTION AND VENUE

- 1. This adversary proceeding is a core proceeding under 28 U.S.C. § 157(b)(2)(EI), relating to the bankruptcy case currently pending under the caption of *In re Cassandra L. Higlesias*, Debtor, Case No. 21-51125, filed under Chapter 13 of Title 11, the United States Code, (the "Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of California, San Jose Division, on August 25, 2021. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 151, 157(a) and 1334 and Bankruptcy Local Rule 5011-1.
 - 2. Venue is proper in this district pursuant to 28 U.S.C. § 1409.

PARTIES

- Plaintiff is an individual and the debtor in the above referenced chapter 13 3. bankruptcy case. Sheresides in Marina, Monterey County, California.
- 4. Defendant is a valid limited liability company formed under laws of the State of California on June 6, 2017. Defendant does business in Santa Cruz County, California.

FACTUAL BACKGROUND

- 5. On June 21, 2021, Plaintiff purchased the Vehicle from Defendant for \$15,995.00. Plaintiff made a \$7,500.00 down payment towards the purchase. Defendant agreed to finance the balance of the purchase price. A copy of the purchase contract is attached hereto as Exhibit A and incorporated herein by this reference.
- 6. On or about July 31, 2021, Defendant repossessed the Vehicle after Plaintiff defaulted on the loan with Defendant.
- 7. Defendant filed a chapter 13 bankruptcy petition on August 25, 2021. Defendant's attorney promptly gave notice of the bankruptcy filing to Defendant.
- 8. In her Schedule A/B filed at the time of her bankruptcy petition, Plaintiff listed the Vehicle with a value of \$12,126.00. In her Schedule C filed at the time of her bankruptcy petition, Plaintiff listed the equity in the amount of \$525.12 as exempt. The Chapter 13 Plan provides for full payment of Defendant's claim.
- 9. Plaintiff uses the Vehicle for her personal transportation and to generate income necessary to fund her Chapter 13 Plan.

1	10.	Defendant has failed and refused to return the Vehicle to Plaintiff	
2		COUNT 1	
3		(11 U.S.C. § 542(a))	
4	11.	Plaintiff realleges and incorporates by this reference each of the allegations set forth	
5	in Paragraphs	1 through 10 above as if the same were fully set forth at this point.	
6	12.	Pursuant to 11 U.S.C. § 541(a), the Vehicle possessed by Defendant constitutes	
7	property of th	e estate.	
8	13.	Upon information and belief, Defendant remains in possession of the Vehicle.	
9	14.	Although Defendant received notice of Plaintiff's bankruptcy, Defendant has failed	
10	and refused to	turn over possession of the Vehicle to Plaintiff.	
11	15.	Plaintiff is entitled to a judgment requiring Defendant deliver possession of the	
12	Vehicle to Pla	intiff pursuant to 11 U.S.C. § 542(a).	
13		RELIEF SOUGHT	
14	WHEREFORE, Plaintiff prays for a judgment as follows:		
15	1.	For judgment that Defendant be compelled to deliver possession of the Vehicle to	
16	Plaintiff; and		
17	2	For such other and further relief as this Court deems just and property.	
18			
19	Date: August	31, 2021 GUENTHER MILLER LAW GROUP	
20		/s/Ralph P. Guenther	
21		<u>/s/Ralph P. Guenther</u> Ralph P. Guenther, Esq. Attorney for Plaintiff	
22		Attorney for Frantisis	
23			
24			
25			
26			
27			
28			